

[First Reprint]

SENATE, No. 1923

STATE OF NEW JERSEY

217th LEGISLATURE

INTRODUCED MARCH 10, 2016

Sponsored by:

Senator JAMES BEACH

District 6 (Burlington and Camden)

Senator LORETTA WEINBERG

District 37 (Bergen)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblyman GARY S. SCHAER

District 36 (Bergen and Passaic)

Assemblywoman NANCY J. PINKIN

District 18 (Middlesex)

Assemblyman CHRIS A. BROWN

District 2 (Atlantic)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Assemblywoman PAMELA R. LAMPITT

District 6 (Burlington and Camden)

Assemblyman VINCENT MAZZEO

District 2 (Atlantic)

Assemblyman JOSEPH A. LAGANA

District 38 (Bergen and Passaic)

Co-Sponsored by:

Senators Bateman, Whelan, Gordon, T.Kean, Kyrillos, Sweeney, Codey, Cruz-Perez, Gill, Greenstein, Lesniak, Madden, Pennacchio, Singer, B.Smith, Vitale, Assemblymen S.Kean, Johnson, Assemblywomen Muoio, Caride, Assemblyman Taliaferro, Senator Diegnan, Assemblywomen Handlin, Jasey, Assemblyman Benson, Assemblywoman Chaparro, Assemblymen Burzichelli, Zwicker, McKeon, Holley, Gusciora, Peterson, Dancer, Bramnick, Eustace, Assemblywoman Schepisi, Assemblyman Wisniewski, Assemblywomen Spencer, Jones, Assemblymen Russo, Rumana, Kennedy, Assemblywoman N.Munoz, Assemblymen A.M.Bucco, Giblin, DiMaio, Assemblywoman Mosquera, Assemblymen Chiaravalloti, Egan and Coughlin

SYNOPSIS

Prohibits investment of pension and annuity funds by State in companies that boycott Israel or Israeli businesses.

CURRENT VERSION OF TEXT

As amended by the General Assembly on June 16, 2016.

1 AN ACT concerning the investment of State pension and annuity
2 funds in companies that boycott Israel or Israeli businesses and
3 supplementing P.L.1950, c.270 (C.52:18A-79).
4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*
7

8 1. The Legislature finds and declares that:

9 Israel and the United States are allies sharing a common bond
10 rooted in the values of freedom, democracy, and equal rights.

11 The State of New Jersey is committed to supporting Israel and
12 maintaining the strong New Jersey-Israel relationship that has
13 existed since the founding of the Jewish state in 1948, recognizing
14 that the United States and Israel have mutually benefitted from
15 being allies, including economic cooperation, which Congress has
16 determined materially benefits the United States.

17 The State is deeply concerned about the Boycott, Divestment and
18 Sanctions (BDS) effort to boycott Israeli goods, products, and
19 businesses which is contrary to federal policy articulated in
20 numerous laws.

21 The State and Israel have a long history of friendship based on
22 economic, cultural, intellectual, and political cooperation and
23 exchange, and the elected representatives of New Jersey recognize
24 and support Israel's right to exist as a Jewish state.

25 More than \$1.3 billion in goods and services are traded annually
26 between New Jersey and Israel, and the two trading partners
27 continue to look for and find new opportunities to enhance
28 cooperation and initiatives of mutual economic benefit.

29 Boycotts, divestments, and sanctions place economic and
30 political pressure on business entities, and other organizations and
31 institutions to influence their behavior against Israel.

32 It is fitting and appropriate that the State of New Jersey reaffirm
33 its interest in viable trade and exchange with an ally of the United
34 State and a vibrant economic partner of the State.

35 Economic cooperation and political reconciliation are necessary
36 for building mutual trust and foundations for a lasting peace in the
37 Middle East.

38 Both Israelis and Palestinians have the right to live safely and
39 securely in their homes, free from fear and violence, with mutual
40 recognition, trade, and normalization of relations as neighbors.

41 The strengthening of New Jersey-Israel cooperation recognizes
42 the beneficial economic and technological value of that cooperation
43 including for improving the competitive capabilities in global
44 markets for both New Jersey and Israel.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly floor amendments adopted June 16, 2016.

1 Nationality-based boycott actions are often veiled discrimination,
2 and it is against the public policy of New Jersey to support such
3 discrimination.

4 Boycotts, such as those against Israel, do not make for effective
5 business decision making, prevent a business from making the best
6 use of the resources available to it and should be opposed as an
7 impairment to the soundness of commercial contracting
8 performance.

9 It is important to the economic well-being of New Jersey that
10 persons or entities conducting commercial trade and doing business
11 in the State do not engage in boycotts of a legitimate and viable
12 partner with whom New Jersey can enjoy open trade contracting.

13 Therefore, it is in the best interest of this State that a statutory
14 prohibition be enacted to prohibit the investment of public
15 employee retirement funds in companies boycotting Israel.

16

17 2. a. Notwithstanding any provision of law to the contrary, no
18 assets of any pension or annuity fund under the jurisdiction of the
19 Division of Investment in the Department of the Treasury, or its
20 successor, shall be invested in any company that boycotts the
21 goods, products, or businesses of Israel, boycotts those doing
22 business with Israel, or boycotts companies operating in Israel or
23 Israeli-controlled territory. This section shall not apply to those
24 boycotts organized by foreign governments pursuant to 50 U.S.C.
25 s.4607(c). The activities of any company solely providing
26 humanitarian aid to the Palestinian people through either a
27 governmental or non-governmental organization shall not render the
28 company subject to the provisions of this act, P.L. , c. (C.)
29 (pending before the Legislature as this bill) unless it is also
30 engaging in the prohibited boycotts or otherwise discriminating
31 against goods, products, or businesses of Israel, or entities operating
32 in Israel or Israeli-controlled territory.

33 b. The State Investment Council and the Director of the
34 Division of Investment shall take appropriate action to sell, redeem,
35 divest, or withdraw any investment held in violation of subsection
36 a. of this section. This section shall not be construed to require the
37 premature or otherwise imprudent sale, redemption, divestment, or
38 withdrawal ¹~~or~~ of an investment, but such sale, redemption,
39 divestment, or withdrawal shall be completed not later than ¹~~18~~
40 24¹ months following the effective date of this act.

41 c. Within ¹~~60~~ 120¹ days after the effective date of this act,
42 the Director of the Division of Investment shall file with the
43 Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
44 19.1), a report of all investments held as of the effective date that
45 are in violation of subsection a. of this section. The State
46 Investment Council and the Director of the Division of Investment
47 shall use its best efforts to identify all companies that boycott Israel
48 and these efforts shall include, but are not limited ¹~~to~~¹, the

1 following, as appropriate in the judgment of the State Investment
2 Council and the Director of the Division of Investment:

3 (1) reviewing and relying on publicly available information
4 regarding companies that boycott Israel, including information
5 provided by non-profit organizations, research firms, and
6 government entities;

7 (2) contacting other institutional investors that have divested
8 from companies that boycott Israel; and

9 (3) retaining an independent research firm to identify companies
10 that boycott Israel.

11 One year thereafter, and every subsequent year on the
12 anniversary of the effective date of this act, the director shall report
13 on all investments sold, redeemed, divested, or withdrawn in
14 compliance with subsection b. of this section. The report shall
15 provide a description of the progress that the division has made
16 since the previous report and since the effective date of this act in
17 implementing subsection b. of this section.

18 d. The members of the State Investment Council, jointly and
19 individually, and State officers and employees involved therewith,
20 shall be indemnified and held harmless by the State of New Jersey
21 from all claims, demands, suits, actions, damages, judgments, costs,
22 charges, and expenses, including court costs and attorney's fees,
23 and against all liability, losses, and damages that these council
24 members, and State officers and employees, may sustain by reason
25 of any decision to restrict, reduce, or eliminate investments
26 pursuant to this act.

27 e. As used in this act, "humanitarian aid" means the provision
28 of goods and services intended to relieve human suffering or to
29 promote general welfare and health; "Boycott, Divestment, and
30 Sanctions" (BDS) refers to the encouragement of boycotts,
31 divestments and sanctions that place economic and political
32 pressure on states, business entities, and other organizations and
33 institutions to influence their behavior against Israel; "boycott"
34 means engaging in actions that are ¹**【politically motivated and are】**¹
35 intended to penalize, inflict economic harm on, or otherwise limit
36 commercial relations with another state or nation; "divestment"
37 means to sell ¹,¹ redeem, or withdraw all holdings of a company
38 from the investment portfolio of another company or of a
39 governmental entity; and "sanctions" means the attempts by
40 national governments, multilateral organizations and other
41 international bodies or their subdivisions to limit or ban trade or
42 other relations with a state or nation.

43 f. The provisions of this act are severable. If any phrase,
44 clause, sentence, provision or section is declared to be invalid or
45 preempted by federal law or regulation, the validity of the
46 remainder of this act shall not be affected thereby.

47
48 ¹**【4.】** 3.¹ This act shall take effect immediately.